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Convention on the Privileges and Immunities of the Specialized Agencies: revised draft annex relating to the World Tourism Organization

Note by the Secretary-General

1. The World Tourism Organization became a specialized agency on 23 December 2003 when the General Assembly, by resolution 58/232, approved the Agreement between the United Nations and the World Tourism Organization, which had previously been approved by the Economic and Social Council by its resolution 2003/2 of 10 July 2003.

2. By resolution 179 (II) of 21 November 1947, the General Assembly approved the Convention on the Privileges and Immunities of the Specialized Agencies and submitted it to the specialized agencies for acceptance and to every Member of the United Nations and to every other State member of one or more of the specialized agencies for accession. The main purpose of the Convention was to harmonize the privileges and immunities enjoyed by the United Nations and the various specialized agencies.

3. Section 35 of the Convention provides that the Secretary-General of the United Nations shall transmit to each newly established specialized agency a draft annex recommended by the Economic and Social Council, by which the standard clauses of the Convention are modified as appropriate for that agency. Under section 36, the final text of the annex shall be that approved by the specialized agency itself in accordance with its constitutional procedure.

4. At its 2006 substantive session, the Economic and Social Council had before it a draft annex to the Convention on the Privileges and Immunities of the Specialized Agencies relating to the World Tourism Organization, which had been prepared by the Legal Counsel of the United Nations in close consultation with the Legal Counsel of the World Tourism Organization (see E/2006/70).

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5. At that session, owing to questions raised by certain representatives, consideration of the draft annex was deferred to the Council's resumed 2006 substantive session and, subsequently, to its 2007 substantive session.

6. At its 2007 substantive session, the Economic and Social Council was informed that the Secretary-General of the World Tourism Organization was undertaking consultations with the Organization's membership with the objective of arriving at a consensus on a revised text of the annex to the Convention. The Council therefore decided to postpone further consideration of this matter until its 2008 substantive session with the proviso that the item could be taken up earlier and a decision adopted without any debate (Council decision 2007/247).

7. At its meeting in Cartagena de Indias, Colombia, in November 2007, the General Assembly of the World Tourism Organization, by its resolution 545 (XVII), approved a revised draft annex which had been prepared by the Legal Counsel of the World Tourism Organization in cooperation with the Legal Counsel of the United Nations, and modified to take into account the concerns raised by certain representatives. That resolution, along with the revised draft annex, was transmitted in a communication from the Secretary-General of the World Tourism Organization to the Secretary-General of the United Nations, which is attached to the present note.

8. This revised draft annex, which follows the annexes of other specialized agencies, is presented to the Economic and Social Council for its approval.

9. The Secretary-General therefore suggests that the Economic and Social Council take note of the attached resolution of the General Assembly of the World Tourism Organization (resolution 545 (XVII)) and recommend the revised draft annex for final approval by the World Tourism Organization.

Letter dated 24 January 2008 from the Secretary-General of the World Tourism Organization addressed to the Secretary-General of the United Nations

[Original: French]

In accordance with the information provided to the Legal Counsel of the World Tourism Organization by the Office of Legal Affairs of the United Nations, I have the honour herewith to request you to draw the attention of the Economic and Social Council of the United Nations, at its next session, to the text of the annex to the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947 relating to the World Tourism Organization.

I should like to refer to article X, section 35, of the Convention, according to which, "in the case of any specialized agency not mentioned by name in section 1, the Secretary-General of the United Nations shall transmit to the agency a draft annex recommended by the Economic and Social Council".

In the case in question, it was agreed, by mutual consent between the Under-Secretary-General, Legal Counsel of the United Nations, and the Legal Counsel of the World Tourism Organization, to facilitate the process in order to avoid unduly delaying final approval of the annex by the General Assembly of the World Tourism Organization, which meets only every two years. Accordingly, a draft annex was drawn up in cooperation with the Office of the Legal Counsel of the United Nations and approved in advance by the General Assembly of the World Tourism Organization at its session in Cartagena de Indias in November 2007. This is a new draft differing from the one proposed in 2005, which was amended in response to objections raised by certain Member States; it was adopted by consensus.

I have attached the text of the annex and of the resolution approving it. It goes without saying that, if the Economic and Social Council raised objections with respect to the wording of the annex, the competent bodies of the World Tourism Organization would have to take a further decision on the amended text.

(*Signed*) Francesco **Frangialli**

Resolution 545 (XVII), adopted by the General Assembly of the World Tourism Organization at its seventeenth session in November 2007

[Original: Arabic, English, French, Russian and Spanish]

Acceptance of the Convention on the Privileges and Immunities of the Specialized Agencies

The General Assembly,

Having taken cognizance of the report of the Secretary-General and of the annexed documents on the acceptance of the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations of 21 November 1947,

Recalling that the General Assembly, at its sixteenth session, approved the draft annex to the Convention that had been submitted to it,

1. *Notes* that the Economic and Social Council of the United Nations was unable to consider the approved draft annex at its last session;

2. *Takes note* that, in accordance with Executive Council decision 14 (LXXX), the Secretary-General has prepared, with the assistance of the Legal Adviser, a new draft annex that has received the favourable opinion of the Under-Secretary-General of the United Nations, the Legal Counsel;

3. *Acknowledges* that this draft annex has received the agreement of a large majority of the Members that transmitted their comments on this subject to the Secretary-General;

4. *Notes further* that Japan has submitted a new annex proposal that goes in the direction of seeking a consensus; and that this new draft has not drawn any objection on the part of the Legal Counsel of the United Nations;

5. *Approves* the draft annex to the Convention reproduced in the annex to the present resolution; *noting*, furthermore, that this acceptance will not affect the regime of privileges and immunities provided for by the agreements already concluded between the Organization and its host country, Spain;

6. *Asks* the Secretary-General to carry out the necessary formalities for the final acceptance of the standard clauses of the Convention and its annex, in cooperation with the Legal Counsel of the United Nations;

7. *Entrusts* the Executive Council with authorizing the Secretary-General on its behalf to give final approval to the text of the annex after its formal adoption by the Economic and Social Council of the United Nations, if it is approved without modification by the latter;

8. *Requests* the Secretary-General to report to it regarding the completion of such formalities at its next session.

Annex

[Original: English, French, Russian and Spanish]

World Tourism Organization

In their application to the World Tourism Organization (hereinafter referred to as "the Organization"), the standard clauses shall operate subject to the following modifications:

1. Article V and section 25, paragraphs 1 and 2 (I), of article VII of the Convention shall extend to the representatives of Associate Members participating in the work of the Organization in accordance with the Statutes of the World Tourism Organization (hereinafter referred to as "the Statutes").

2. Representatives of Affiliate Members, participating in the activities of the Organization in accordance with the Statutes, shall be granted:

(a) All facilities in order to safeguard the independent exercise of their official functions;

(b) Maximum expeditiousness in the processing of their applications for visas, where required and when accompanied by a certificate that they are travelling on the business of the Organization. In addition, such persons shall be granted facilities for speedy travel;

(c) In connection with subparagraph (b) above, the principle contained in the last sentence of section 12 of the standard clauses shall apply.

3. Experts, other than officials coming within the scope of article VI of the Convention, serving on organs and bodies of, or performing missions for, the Organization, shall be accorded such privileges and immunities as are necessary for the independent and effective exercise of their functions, including the time spent on journeys in connection with service on organs and bodies or missions. In particular they shall be accorded:

(a) Immunity from personal arrest or seizure of their personal baggage;

(b) In respect of words spoken or written or acts done by them in the performance of their official functions, immunity from legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer serving on organs and bodies of, or employed on mission for, the Organization;

(c) Inviolability for all papers and documents relating to the work on which they are engaged for the Organization;

(d) For the purpose of their communications with the Organization, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) The same facilities in respect of currency and exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions.

4. Privileges and immunities are granted to the experts in the interests of the Organization and not for the personal benefit of the individuals themselves. The Secretary-General of the Organization shall have the right and the duty to waive the immunity of any expert in any case where, in his/her opinion, the immunity would

impede the course of justice and it can be waived without prejudice to the interests of the Organization.

5. Notwithstanding paragraph 2 above, paragraphs 3 and 4 above shall apply to representatives of Affiliate Members performing missions for the Organization as experts.

6. The privileges and immunities, exemptions and facilities referred to in section 21 of the standard clauses shall also be accorded to the Deputy Secretary-General of the Organization, his/her spouse and minor children.